

as to whether a response had been filed. A call by Examiner Fox was received after September 26, 2008, the last day in which a response could be timely filed.

The Applicant hereby provisionally elects, with traverse, the Group I claims, namely, claims 1-6, 9, 10, 15 and 17.

REMARKS

The Applicant hereby traverses the restriction requirement and asks for its reconsideration and withdrawal. The Examiner is requested to withdraw the restriction requirement and concurrently examine all of the claims now in the application. The avowed purpose of the Patent & Trademark Office in requiring an election, whether part of a species or invention restriction, is the avoidance of a burdensome examination, i.e., to avoid multiple searches, etc. .However, MPEP §803 provides that, if the search and examination of an entire application can be made without serious burden, the examiner is encouraged to examine it on the merits even if it is considered to include claims to two different or independent inventions.

It is respectfully submitted that the examination of all the claims in this application will not place an undue burden on the Patent Office.

The Examiner has divided the claims into three groups, namely, Group I, containing claims 1-6, 9, 10, 15 and 17; Group II, containing claims 7, 8 and 11-14; and, Group III, containing claims 18-28. As indicated above, the Applicant provisionally elects the Group I claims. However, the Group II claims are all

dependent claims, which depend directly or indirectly from independent claim 6, which is part of the Group I claims. If claim 6 is allowed, the Group II claims will be allowable and should be allowed with claim 6. Why should the Applicant be forced to incur the expense of a separate divisional application for dependent claims? Moreover, how is the Patent Office burden reduced by separating these four dependent claims? Moreover, these four dependent claims feature details of a movement control member. Claim 1 (which is also part of the Group I claims), calls for a "changeable stop member for limiting movement in the valve member". In examining claim 1, the Examiner will have to search the art for a "changeable stop member". Certainly, that same art will have to be searched for a "movement control member coupled to a valve spool" when the Group II claims are examined. In other words the Examiner's search burden is not reduced by excluding claims 7, 8 and 11-14 from the Group I claims. In conclusion, the Group II claims should be examined with the Group I claims. If claim 6 is allowed, how will the Examiner handle claim 7, 8 and 11-14 which depend directly or indirectly from claim 6?

The Examiner asserts that the Group III claims, namely 18-28, are drawn to a valve with another particular spool structure (emphasis added). What other particular spool structure is the Examiner referring to? Referring to the Group I claims, claim 3, which depends from claim 1, calls for a valving member that includes

a pair of spaced apart disk-like members. Independent claim 6 calls for a valve spool that includes a disk-like member.

Claim 18, which forms part of the Group III claims, calls for a disk member. Claims 19-28 depend directly or indirectly from claim 18. It should be apparent, that the Group I claims and the Group III claims all call for either a disk-like member or a "disk member". In performing the prior art search for the Group I claims, the Examiner will have to search for "disk-like members forming part of a valving member or a valve spool". It should be noted here that both claim 1 and claim 18 call for a valve member. In examining the Group I claims, the Examiner will have to search the prior art for the "disk-like member". This same art will have to be searched for a "disk member" when the Group III claims are examined. How, then, is the search burden reduced by creating a separate group for claims 18-28? Increasing the expense of prosecuting all of the claims in the subject application by requiring divisional applications is unjustified in view of the above. The search burden is not reduced by this restriction requirement. In short, the search and examination of the entire application can be made without serious burden and, accordingly, the Examiner should examine all of the claims in this application as suggested by MPEP §803.

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Please charge any deficiency or credit any overpayment in the fees for this response to our Deposit Account No. 20-0090.

Respectfully submitted,

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